

Complaint.

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FEDERAL TRADE COMMISSION

v.

WASATCH WOOLEN MILLS, A CORPORATION.

COMPLAINT, FINDINGS, AND ORDER IN THE MATTER OF THE ALLEGED VIOLATION OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.

Docket 970—November 15, 1923.

SYLLABUS.

Where a corporation engaged in the sale of knit underwear, sweaters, skirts, hosiery, and other similar products direct to consumers, and neither owning, controlling, nor operating any mill manufacturing the knit goods sold by it, about one-half of which were made for it under an agreement with another concern and the balance bought from other companies, featured its corporate name "Wasatch Woolen Mills" on its letterheads and elsewhere, with the effect of misleading the trade and public into believing it to be the manufacturer of the goods sold by it:

Held, That such misrepresentation, under the circumstances set forth, constituted an unfair method of competition.

Mr. G. Ed. Rowland for the Commission.

Mr. George Jay Gibson of Salt Lake City, Utah, for respondent.

COMPLAINT.

Acting in the public interest pursuant to the provisions of An Act of Congress approved September 26, 1914, entitled "An Act To create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission charges that the Wasatch Woolen Mills, a corporation, hereinafter referred to as respondent, has been and is using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said Act, and states its charges in that respect as follows:

PARAGRAPH 1. Respondent is now and has been since May, 1916, a corporation duly organized and existing under and by virtue of the laws of the State of Utah with its principal place of business at Salt Lake City, in said State, and since its incorporation has been and now is engaged in the business of selling direct to customers located in Utah, Nebraska, Montana, and various other States of the United States, knit hosiery, sweaters, underwear and knit or woven coats, skirts, blankets and other similar merchandise, and in shipping and causing to be shipped said merchandise, when sold, from the State of Utah to its said customers at various points in other States of the United States. In the course and conduct of its said business, re-

spondent is and has been during all the times mentioned in this complaint, in competition with others similarly engaged.

PAR. 2. That respondent, in the course and conduct of its said business, uses its corporate name "Wasatch Woolen Mills," and has prominently displayed and does now prominently display its said name in its newspaper advertisements, letterheads, order blanks, package labels, and other stationery and literature, and also has and now does display upon its order blanks presented by its agents to prospective customers, the words "woolen goods made to order." The respondent has and does now solicit its business by its agents who travel throughout various States of the United States other than Utah, and solicit and obtain, direct from the user or consumer of the articles sold by respondent, orders for said articles. Said agents represent orally to their prospective customers that respondent is the manufacturer of the articles offered for sale. Respondent has also widely circulated and does now widely circulate, circulars among its prospective customers, containing over the signature of respondent, the representation that the articles sold by respondent are made expressly for the customer by the respondent and that the customer thereby obtains, at wholesale prices, a better quality of goods than he could obtain elsewhere, and other representations of like nature.

PAR. 3. Respondent has, at no time during its existence, owned, controlled, or operated, and does not now own, control or operate any woolen mill or other factory, and did not and does not now manufacture any of the articles sold or offered for sale by it, and has filled and now fills the orders received by it from its customers, from merchandise purchased by it from the stock of manufacturers and others.

PAR. 4. The use by respondent of the corporate name "Wasatch Woolen Mills" in the manner above alleged and the course of conduct set forth in paragraphs 2 and 3 of this complaint, severally, or taken together, have the tendency and capacity to mislead and deceive, and do mislead and deceive, the public into the mistaken belief that the respondent owns or operates mills or factories in which are manufactured the articles sold or offered for sale by it and that persons buying from respondent are buying directly from the manufacturer and are thereby saving the profits of the middleman.

PAR. 5. The above alleged acts and things done by respondent are all to the prejudice of the public and respondent's said competitors and constitute unfair methods of competition in commerce, within the intent and meaning of Section 5 of an Act of Congress entitled,

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"An Act to create a Federal Trade Commission to define its powers and duties, and for other purposes," approved September 26, 1914.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

Pursuant to the provision of an Act of Congress approved September 26, 1914, the Federal Trade Commission issued and served a complaint upon the respondent, Wasatch Woolen Mills, charging it with the use of unfair methods of competition in commerce, in violation of the provisions of said act.

Respondent having entered its appearance and filed its answer herein, hearings were had and evidence and testimony was thereupon introduced in support of the allegations of said complaint before an examiner of the Federal Trade Commission, theretofore duly appointed.

And thereupon this proceeding came on for final hearing and counsel for the Federal Trade Commission and for the respondent having submitted briefs, and the Commission having duly considered the record, and being now fully advised in the premises, makes this its findings as to the facts and conclusion:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. Wasatch Woolen Mills, the respondent, is now, and has been since May 1916, a corporation duly organized and existing under and by virtue of the laws of the State of Utah, with its principal place of business at Salt Lake City in said State, and is engaged in the business of selling direct to customers located in Utah, Idaho, Montana, and various other States of the inter-mountain section of the United States, knit underwear, sweaters, skirts, hosiery, blankets, overcoats, leather vests, and other similar merchandise, and in shipping, and causing to be shipped said merchandise when sold, from the State of Utah to its customers in other States of the United States, in interstate commerce. In the course and conduct of its said business respondent is in competition with other persons, firms, and corporations similarly engaged.

PAR. 2. The respondent was organized in the year 1916 and from 1916 to April 20, 1918, had machinery and manufactured by the process of knitting a proportion of the goods which they sold, but on or about April 20, 1918, the respondent became involved in financial difficulties and its machinery was sold and the management of the respondent thereupon entered into an agreement with the Model Knitting Works of Salt Lake City, Utah, a concern which had machinery and which manufactured by the process of knitting from

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woolen yarn, underwear, sweaters, skirts and hosiery, and thereafter the respondent on its letterhead used the words:

WASATCH WOOLEN MILLS

Consolidated with

MODEL KNITTING WORKS

Manufacturers of

UTAHWEARE

Woolen Goods.

and the Model Knitting Works made up the garments so ordered and delivered them to the respondent who, in turn, caused them to be delivered to the customers.

PAR. 3. The business of the respondent has varied during different years from \$60,000 to \$125,000. The respondent solicits its business by means of solicitors or agents who travel throughout the various States in the inter-mountain section and solicit and obtain orders direct from the user or consumer of the articles sold. Knitted goods of various kinds constitute about 75% of the sales of respondent, and of these knitted goods, considered over a period of years, an average of 50% is manufactured for respondent by Model Knitting Works, the balance being bought from companies in the east and elsewhere. For such garments as are made by Model Knitting Works for the respondent, the orders, measurements and specifications are sent direct by the respondent to the Model Knitting Works which make up these orders day by day as they are received, and upon the completion of said orders, the goods are forwarded to the Wasatch Woolen Mills by the Model Knitting Works, and are by the respondent forwarded to the individual customer.

PAR. 4. The respondent in addition to its business in underwear, sweaters, wool skirts, and other knit goods carried on as set forth in paragraph 3 above, also carries a side line of blankets, overcoats, and leather vests, the blankets and overcoats which it sells being for the most part bought from woolen mills located at Provo, in the State of Utah, and the leather vests from Minneapolis.

PAR. 5. The word "Utahweare" is a trade name which has been in use for years by the Model Knitting Works and with the consent and approval of the Model Knitting Works the respondent features the said word on its letterheads, shipping tags, and other literature. Respondent uses the trade name "Utahweare" on practically all the

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knitted sweaters and underwear which it sells, whether made by the Model Knitting Works or by other manufacturers, and it furnishes labels bearing this word to the eastern manufacturers from which it purchases sweaters and other knitted goods. On the shipping tag used by the respondent appear the words "Manufacturer of Utah-weare Woolen Goods."

There is no evidence that the agents or solicitors of the respondent ever in any way orally misrepresented to customers the origin of the goods offered for sale, but said agents or solicitors are instructed by respondent to make no statement to a customer as to whether the articles sold by respondents are manufactured by it to individual measure, bought from eastern concerns, or made in the State of Utah.

PAR. 6. The respondent at the time of the taking of the testimony in this case, to wit, June 15, 1923, did not own any machinery, and did not at that time, nor has it since April 20, 1918, manufactured in any plant owned by it, any of the products which it sells.

PAR. 7. The use by respondent of the name "Wasatch Woolen Mills, Inc.," as set forth in the complaint herein creates the impression in the minds of the trade and public that the company is engaged in the process of manufacturing certain articles which it sells by the method of knitting, and leads the public to believe that said respondent does actually own or operate a mill or factory in which articles sold by it are manufactured. The fact is that respondent does not manufacture any of the articles which it sells and does not own, control or operate any mill in which knitted goods are manufactured.

CONCLUSION.

That the acts, practices and activities of respondent as hereinabove set forth and under the conditions and in the circumstances set forth in the foregoing findings as to the facts are unfair methods of competition in commerce and constitute a violation of Section 5 of the Act of Congress approved September 26, 1914, entitled, "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

ORDER TO CEASE AND DESIST.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent and the testimony and evidence, and the Commission having made its findings as to the facts with its conclusion that the respondent has violated the provisions of the Act of Congress ap-

proved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes,"

Now, therefore it is ordered, That the respondent, Wasatch Woolen Mills, Inc., cease and desist from doing business under the corporate name and style of Wasatch Woolen Mills, or any other corporate name which includes the word "mills" unless and until such respondent actually owns or operates a mill or mills in which it manufactures the woolen articles which it sells.

It is further ordered, That the respondent shall within sixty (60) days after the date of the service upon it of this order file with the Commission a report in writing setting forth in detail the manner and form in which this order has been complied with.

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v.
JENKINS KNITTING MILLS COMPANY.